IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.12444 of 2005
Date of Decision:28.08.2006

Yadwinder Singh

Petitioner

versus

State of Punjab and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri L.S.Sidhu, Advocate for the petitioner
Shri P.S.Chhina, Additional Advocate General, Punjab

Jasbir Singh, J. (Oral)

Vide order dated 19.5.2005 (Annexure P/2), the petitioner was suspended from the post of Sarpanch of Gram Panchayat Bullepur, Block Khana, District Ludhiana, by invoking the provisions of Section 20(3) of the Punjab Panchayati Raj Act, 1994 (in short the Act). His appeal was dismissed vide order dated 1.7.2005 Annexure P/1.

It is not in dispute that initially, an FIR was recorded against the petitioner under Sections 307, 506, 294 IPC read with Section 25 of the Arms Act, 1959. Subsequent thereto, he was charge sheeted only for commission of offences under Section 506 (Part II) IPC and under Section 27 of the Arms Act. By taking note of the above-mentioned facts, he was ordered to be suspended from the post of Sarpanch. Counsel for the petitioner contends that while passing the impugned order against the petitioner, the competent authority has not given any finding as to in what manner, the charge framed against him is likely to embarrass the petitioner, in the discharge of his duties and also whether it involves moral turpitude or

defect of character. Reading of the order Annexure P/2, clearly indicates that it has only been said that continuation of the petitioner, as Sarpanch will not be in the public interest. This Court feels that the findings/ reasons, which, it is necessary to record under Section 20(3) of the Act, to remove a Panch or the Sarpanch, have not been noticed by the competent authority, at the time when order, under challenge, was passed. When confronted with this situation, Shri Chhina very fairly states that let the order, under challenge be set aside and the State be given liberty to pass a fresh order, on merits.

In view of the situation explained above, this writ petition is allowed, orders Annexures P/1 and P/2 are set aside and liberty is granted to the respondents, to pass a fresh order, as per law, if need be.

(Jasbir Singh)
Judge

August 28, 2006 **(Pritam Pal)**
gk **Judge**